

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
PANAMSAT LICENSEE CORP.)	File Nos. SAT-MOD-20021226-00240
)	SAT-AMD-20040608-00112
Application for modification of)	
License for the PAS-9 Satellite)	Call Sign: PAS-9
)	
PANAMSAT LICENSEE CORP.)	File Nos. SAT-STA-20011206-00103
)	SAT-STA-20030620-00116
Applications for Special Temporary)	
Authority in Connection with the)	Call Sign: PAS-9
Operations of the PAS-9 Satellite)	

ORDER AND AUTHORIZATION

Adopted: August 25, 2004

Released: August 26, 2004

By the Chief, Satellite Division, International Bureau:

I. Introduction

1. By this Order, we grant PanAmSat Licensee Corp. (PanAmSat) conditional authority to operate the C-band communications payload and Ku-Band¹ Telemetry, Tracking and Command (TT&C) stations aboard its satellite, Call Sign PAS-9,² from the 26.15° E.L. orbit location. Grant of this application, as amended, will permit PanAmSat to make maximum use of existing orbital resources and satisfy customer requirements.

II. Background

2. PAS-9 is a hybrid C/Ku-band satellite that began providing service at 58° W.L. in October 1997.³ The failure of a cell in PAS-9's battery system rendered the satellite incapable of providing the full range of services required at 58° W.L. Consequently, PanAmSat was authorized to launch and operate a replacement satellite, PAS-23, at that location.⁴ Following the initiation of service by PAS-23, PanAmSat filed and was granted a series of requests for special temporary authority (STA), first to

¹ As used in this Order and Authorization, "C-Band" refers to the 5925-6425 MHz (uplink) and 3700-4200 MHz (downlink) frequency bands. The term "Ku-Band" refers to frequencies in the 10-14 GHz range. This authorization is limited to specific Ku-Band frequencies. See ¶ 7, *infra*.

² Panamsat currently refers to the satellite by the commercial name of PAS-5. See http://www.panamsat.com/global_network/polar_chart.asp. In this Order and Authorization, we will refer to the satellite by its Call Sign, PAS-9.

³ *PanAmSat Corp.*, Order and Authorization, 13 FCC Rcd 4743 (1997).

⁴ *PanAmSat Corp.*, Order and Authorization, 15 FCC Rcd 11747 (2000).

relocate PAS-9 to the 155.5° W.L. orbital location,⁵ then to relocate PAS-9 to 58.1° W.L. where it would serve as an in-orbit spare pending further reassignment.⁶ On July 11, 2002, PanAmSat filed a request for STA to relocate PAS-9 from 58.1° W.L. to 26.15° E.L., where it would provide back-up and supplemental capacity for the Arab Satellite Communications Organization's (Arabsat) Arabsat 2A satellite.⁷ This request was not granted initially, but was followed by two requests -- first to move PAS-9 from 58.1° W.L. to 45.15° W.L.⁸ and then to 26.15° E.L.⁹—which were granted. The July 11 STA request was subsequently granted to permit operations at 26.15° E.L.¹⁰

3. PanAmSat then filed the instant request for modification of its license to permit PAS-9 to operate at the 26.15° E.L. orbit location.¹¹ Although the PAS-9 is incapable of providing the full range of services required at 58.1° W.L., PanAmSat states that PAS-9 still has many years of station-kept life remaining and still can provide useful services.¹² PanAmSat also states that it has entered into an agreement to lease all of the C-band transponders on the satellite to Arabsat for use at 26.15° E.L.¹³ PanAmSat states that the PAS-9 satellite will essentially be co-located with Arabsat 2A located at 26° E.L., with 0.15 degrees of separation to facilitate station-keeping.¹⁴ On December 5, 2003, Panamsat submitted a copy of its agreement with Arabsat, subject to a request for confidential treatment.¹⁵ On June 8, 2004, PanAmSat amended its application to change the proposed pointing of the PAS-9 C-band and TT&C beams in order to meet customer requirements more effectively.

III. Discussion

4. We find that the public interest will be served by permitting PanAmSat to operate PAS-9 at the 26.15° E.L. orbit location, subject to conditions. Although PAS-9 cannot provide the full range of services required at other orbital locations, use of this satellite at the 26.15° E.L. orbit location will permit PanAmSat to make use of a satellite that had been serving as an in-orbit spare because of its

⁵ Granted by Letter from Thomas S. Tycz, Chief, Satellite Division, to Joseph Godles, Esq., counsel for PanAmSat (June 8, 2001) (File No. SAT-STA-20010226-00014). *See also* File No. SAT-STA-20011206-00103 (requesting authority to continue operations at the 155.5° W.L. orbital location); 47 C.F.R. § 1.62. With respect to File No. SAT-STA-20011206-00103, we are taking the ministerial action of granting the request, with an expiration date of June 18, 2002, by this Order and Authorization.

⁶ *See* File No. SAT-STA-20020605-00083 (granted June 18, 2002, with an expiration date of September 17, 2002).

⁷ *See* File No. SAT-STA-20020711-00099 (July 11 STA request).

⁸ *See* PanAmSat Request for Special Temporary Authority, File No. SAT-STA-20020808-00123, granted August 15, 2002, with an expiration date of September 16, 2004.

⁹ *See* PanAmSat Request for Special Temporary Authority, File No. SAT-STA-20021002-00180, granted November 21, 2002, expiration date January 21, 2003.

¹⁰ Granted December 27, 2002, with an expiration date of June 27, 2003. *See also* File No. 20030620-00116 (requesting authority to continue operations at the 26.15° E.L. orbital location); 47 C.F.R. § 1.62. With respect to File No. 20030620-00116, we are taking the ministerial action of granting the request, with an expiration date of August 26, 2004.

¹¹ PanAmSat's application was placed on public notice on August 18, 2003, Report No. SAT-00160, as corrected by Report No. SAT-00161 (August 22, 2003). No comments were received.

¹² February 11, 2002 STA, p. 1.

¹³ *Id.* at p. 2.

¹⁴ *Id.*

¹⁵ Letter from Joseph A. Godles, Counsel for PanAmSat, to Marlene Dortch, Secretary, FCC.

technical limitations.

5. We do not believe that PanAmSat's use will cause unacceptable interference to adjacent satellites. According to PanAmSat, the government of Saudi Arabia, as the coordinating administration for the Arabsat system, has already coordinated use of C-band frequencies that are consistent with PanAmSat's operations at 26.15° E.L.¹⁶ In addition, PanAmSat states that it has completed coordination of TT&C frequencies with all satellite operators within five degrees of the 26.15° E.L. orbit location.¹⁷ We also note that PanAmSat is already providing the requested service pursuant to a grant of STA without any complaints of harmful interference to adjacent satellite providers.

6. Given the arrangements between PanAmSat and Arabsat, and the fact that PAS-9 will operate at a location at which the United States has not submitted any relevant International Telecommunication Union (ITU) filings, a brief discussion concerning the regulatory status of the operations of the PAS-9 satellite is in order. This authorization is issued on a non-harmful interference basis, *i.e.* Panamsat may neither cause harmful interference to nor claim interference protection from other lawfully operating stations.¹⁸ This authorization is issued on the understanding that, pursuant to PanAmSat's agreement with Arabsat, operations of the PAS-9 satellite will be consistent with parameters agreed to in coordination agreements between the Administration of Saudi Arabia and other Administrations. We consider the responsibility for both compliance with and enforcing compliance with those agreements, however, to be a matter which would arise under private law. PanAmSat shall maintain full control over the operation of the PAS-9 satellite and the United States remains the licensing administration of the PAS-9 satellite for purposes of ITU Radio Regulation 18.1.¹⁹ Further, with respect to its filings with the ITU for the 26° E.L. orbital location, the Administration of Saudi Arabia is not acting pursuant to Article 9 of the Radio Regulations on behalf of the United States Administration.²⁰ The issuance of this authorization should not be construed as in any way indicating a view as to the status of any ITU filings at the 26° E.L. orbital location, or adjacent locations, or of any coordination agreements concerning those locations.

IV. Ordering Clauses

¹⁶ PanAmSat Modification Application, p.3.

¹⁷ *Id.*

¹⁸ See ITU Radio Regulations, Article 4.4.

¹⁹ ITU Radio Regulation 18.1 states that "[n]o transmitting station may be established or operated by a private person or by any enterprise without a license issued in an appropriate form and in conformity with the provisions of these Regulations by or on behalf of the government of the country to which the station in question is subject" We also note that the agreement between PanAmSat and Arabsat references an authorization issued by Saudi Arabia as the licensing administration of the Arabsat satellite system. We conclude that that authorization is not an authorization for the PAS-9 satellite, and that any reference in the agreement between PanAmSat and Arabsat to Arabsat's transponder capacity does not have the effect of including the PAS-9 satellite as part of the Arabsat satellite network. See e-mail from Nashaat M. Waheeb, Director, Satellite Control Network, Arabsat, File No. SAT-MOD-20021226-00240 ("This is to inform you that Saudi Arabia, being the notifying administration for ARABSAT, has licensed ARABSAT to operate its systems' satellites at 26° E.L.. Saudi Arabia has not, however, licensed PanAmSat's operation of PAS-5 at 26.15° E.L., which we recognize is governed by the authorization provided by the U.S. Federal Communications Commission.") Nothing in PanAmSat's agreement with Arabsat or in any license granted to Arabsat shall be construed as incorporating PAS-9 into the Arabsat satellite system, or subjecting PAS-9 to the licensing authority of any administration other than the United States.

²⁰ Article 9 of the ITU Radio Regulations outlines the procedures for effecting coordination of satellite networks, and permits one administration to act on behalf of a group of named administrations. See ITU Radio Regulations 9.1, 9.6.

7. Accordingly, IT IS ORDERED that application File No. SAT-MOD-20021226-00052, as amended by File No. SAT-AMD-20040608-00112, IS GRANTED and PanAmSat Licensee Corp.'s license to operate the PAS-9 satellite IS MODIFIED to specify operations at the 26.15° E.L. orbital location until January 2, 2007, and PanAmSat is authorized:

a.) to operate the PAS-9 satellite at the 26.15° E.L. orbital location using the satellite's C-band frequencies (5925-6425 MHz, 3700-4200 MHz).

b.) to operate the following Ku-band frequencies and polarizations for its Tracking, Telemetry and Command functions: Command—14498.0 MHz, horizontal (on-station and omni bicone), 13999 MHz, right hand circular (pipe); Telemetry—11451 MHz, horizontal (on-station), 11452 MHz, horizontal (on-station), 11451 MHz, vertical (omni), 11452 MHz vertical (omni), 11451 MHz, right hand circular (pipe) and 11452 MHz right hand circular (pipe).

8. IT IS FURTHER ORDERED, that PanAmSat's operations shall be on a non-harmful interference basis, i.e., PanAmSat shall not cause harmful interference to, and shall not claim protection from interference caused to it by, any other lawfully operating satellites.

9. IT IS FURTHER ORDERED, that in the event of any harmful interference as a result of PanAmSat's operations at the 26.15° E.L. orbital location, PanAmSat shall cease operations immediately upon notification of such interference and shall inform the FCC in writing immediately of such an event.

10. IT IS FURTHER ORDERED that PanAmSat shall inform its customers that operations at the 26.15° E.L. orbital location are on a non-harmful interference basis and that PanAmSat must cease operations upon notification of such interference.

11. IT IS FURTHER ORDERED that PanAmSat shall maintain full operational control of the PAS-9 satellite at all times.

12. IT IS FURTHER ORDERED that PanAmSat shall prepare and submit to the Federal Communications Commission, within fifteen days following release of this Order, materials for submission to the ITU, pursuant to Article 8.4 of the Radio Regulations,²¹ in connection with the operations of the PAS-9 spacecraft at the 26.15° E.L. orbital location.

13. IT IS FURTHER ORDERED, that PanAmSat's request for Special Temporary Authority, File No. SAT-STA-20011206-00103, IS GRANTED, with an expiration date of June 18, 2002.

14. IT IS FURTHER ORDERED, that PanAmSat's request for Special Temporary Authority, File No. 20030620-00116, IS GRANTED, with an expiration date of August 26, 2004.

15. IT IS FURTHER ORDERED, that PanAmSat shall not operate the non-TT&C portion of PAS-9's Ku-band payload while operating PAS-9 at the 26.15° E.L. orbit location.

²¹ Article 8.4 of the Radio Regulations provides for recording of a frequency assignment in the ITU Master International Frequency Register, for informational purposes, upon a statement by the notifying administration that the assignment will be operated in accordance with Radio Regulation 4.4, concerning operation on a non-harmful interference basis.

16. IT IS FURTHER ORDERED that in connection with the provision of service in any particular country, PanAmSat is obliged to comply with the applicable laws, regulations, rules, and licensing procedures of that country.

17. PanAmSat is afforded thirty days from the date of release of this grant and authorization to decline this authorization as conditioned. Failure to respond within this period will constitute formal acceptance of the authorization as conditioned.

18. This authorization is issued pursuant to Section 0.261 of the Commission's rules on delegated authority, 47 C.F.R. § 0.261 and is effective upon release. Petitions for reconsideration under Section 1.106 or applications for review under Section 1.115, 47 C.F.R. §§ 1.106, 1.115, may be filed within 30 days of the date of the public notice indicating that this action was taken.

FEDERAL COMMUNICATIONS COMMISSION

Thomas S. Tycz
Chief, Satellite Division
International Bureau